

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NIKE, INC.,

Plaintiff,

-v-

BY KIY LLC, et al.,

Defendants.

CIVIL ACTION NO.: 23 Civ. 2431 (VM) (SLC)

**ORDER**

**SARAH L. CAVE**, United States Magistrate Judge.

Before the Court are two motions. First, Defendants By Kiy LLC, Nickwon Arvinger, and David Weeks (“Defendants”) move for (i) a protective order to postpone three depositions, and (ii) a 60-day extension of the parties’ time to complete fact discovery. (ECF No. 79 (“Defendants’ Motion”)).<sup>1</sup> Plaintiff Nike, Inc. (“Plaintiff”) opposes Defendants’ Motion. (ECF No. 86). Second, Plaintiff Nike, Inc. (“Plaintiff”) moves to compel Defendants to produce witnesses for the three depositions on or before the close of fact discovery on July 25, 2023. (ECF No. 87 (“Plaintiff’s Motion”)).<sup>2</sup> Defendants’ Motion is DENIED. Plaintiff’s Motion is GRANTED.

Defendants have failed to show good cause for a protective order. Defendants generally complain that Plaintiff has failed to produce “useful” or “meaningful” documents, but does not specifically identify any documents that must be, but not have been, produced in order to

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<sup>1</sup> Defendants characterize their application as an “emergency motion.” (ECF No. 79). The issues raised in Defendants’ Motion plainly do not constitute an emergency. Fact discovery is not scheduled to close in until July 25, 2023, and the Court does not perceive any reason why the motion should not have been brought in the manner provided for in Rule III of the Honorable Victor Marrero’s Individual Practices.

<sup>2</sup> The parties are directed to review the undersigned’s Individual Practices in Civil Cases, particularly those pertaining to discovery disputes and extension requests. Going forward, any such applications must comply with these rules.

produce one or more of its witnesses for deposition. (ECF No. 79). Defendants have not previously raised with the Court any specific deficiencies in Plaintiff's productions, and have therefore failed to justify their late refusal to produce witnesses. Defendants' Motion appears to be an eleventh-hour attempt to delay its witnesses' depositions. Based on the correspondence the parties have provided, Defendants have also failed to show good cause to extend the July 25, 2023 deadline for the completion of fact discovery.

Accordingly, by **July 14, 2023, at 5:00 p.m.**, Defendants shall provide to Plaintiff proposed dates for the depositions of By KIY LLC, Mr. Arvinger, and Mr. Weeks, which shall take place prior to the close of fact discovery on July 25, 2023.

By **July 31, 2023**, the parties shall file a joint letter on the docket certifying the close of fact discovery.

The Clerk of Court is respectfully directed to close ECF Nos. 79 and 87.

Dated: New York, New York  
July 11, 2023

SO ORDERED.

  
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SARAH L. CAVE  
United States Magistrate Judge